D.B. SPECIAL APPEAL (CIVIL) NO. 90/2007

Date of order : 21.08.2007

HON'BLE MR. RAJESH BALIA, J.
HON'BLE MR. SANGEET LODHA, J.

Mr. B.S. Sandhu, for the appellants.
Mr. Manoj Bohra, for the respondents.

The only contention in this appeal is to bring the judgment of learned Single Judge under appeal in consonance with the judgment rendered in Gurtej Singh's case, following which the appeal of the petitioner has been dismissed.

It has been pointed out by the learned counsel for the appellant that while in Gurtej Singh's Judgment group of appeals arising out of the same land acquisition proceedings to which the present case relates Rs. 19,000/- per bigha fixed as market price of the land under acquisition in all cases for the purpose of determining compensation has been upheld to be fair and reasonable. In petitioner's case only 15,000/- per bigha has been fixed as market value. He had filed appeal for enhancement. The appeal was dismissed solely by following judgment in Gurtej Singh's case. Learned Single Judge in the group of

cases decided in Gurtej Singh Vs. State & Ors. have given the following finding :

> "It will be seen from the above reference made by the Hon'ble Supreme Court that the Court may consider the documents on record. It has been done by the courts below in arriving at a just conclusion for awarding Rs. 19,000/- per bigha. The objection of the Union of India in this regard that those documents could not be considered is un-sustainable. The documents were taken on record and were a valid piece of evidence vide Narasaiah (supra) ".

The petitioner's case is confined to the fact that since in his case the compensation has been awarded only at Rs. 15,000/- per bigha, his appeal if it were to be disposed of in accordance with the judgment in Gurtej Singh's case the compensation awarded to him also to have been raised to 19,000/- per bigha.

Shorn of any technical ground this appears to be mistake which could have been corrected even by

making a proper application for rectification/review.

Since, we are informed that no appeal has been preferred against the judgment of learned Single Judge in Gurtej Singh's case by any of the parties and there is no dispute that the land in question is also the subject matter of the same acquisition proceedings. The petitioner becomes entitled to this relief even in terms of Section 23A. In view thereof, this appeal is allowed to the extent that following Gurtej Singh's case instead of Rs. 15,000/- per bigha the petitioner shall also be allowed to the compensation for his land by taking market price of land at the rate of Rs. 19,000/- per bigha which has been acquired under the same proceedings as was in the case of Gurtej Singh's case which have been followed for deciding appeal of the appellant.

Appeal is accordingly disposed of.

The compensation of the petitioner thus may be fixed in accordance the other cases which have been decided vide judgment in Gurtej Singh's case by enhancing market rate from Rs. 15,000/- to 19,000/- per bigha.

The amount of compensation shall be

accordingly recomputed in that light. The amount of enhanced compensation shall be paid to the appellant with 8% interest w.e.f. the date possession was taken from him.

No Costs.

(SANGEET LODHA)J. **(RAJESH BALIA)J.**

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